

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

AUG 3 2004

PATRICK FISHER
Clerk

DEBRA S. KUPCAK,

Plaintiff-Appellant,

v.

GARY JOHNSON, New Mexico
Governor; CITY OF CARLSBAD;
EDDY COUNTY; EDDY FEDERAL
CREDIT UNION; WESTERN
COMMERCE BANK; INTERNAL
REVENUE SERVICE;
DEPARTMENT OF JUSTICE,

Defendants-Appellees.

No. 03-2160
(D.C. No. CIV-02-1388 WJ/LAM)
(D. N.M.)

ORDER AND JUDGMENT *

Before **TACHA**, Chief Judge, **MURPHY**, Circuit Judge, and **CAUTHRON**,^{**}
Chief District Judge.

After examining the briefs and appellate record, this panel has determined
unanimously that oral argument would not materially assist the determination of

* This order and judgment is not binding precedent, except under the
doctrines of law of the case, res judicata, and collateral estoppel. The court
generally disfavors the citation of orders and judgments; nevertheless, an order
and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

** The Honorable Robin J. Cauthron, Chief District Judge, United States
District Court for the Western District of Oklahoma, sitting by designation.

this appeal. *See* Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument.

Plaintiff Debra S. Kupcak brought this action in state court for damages arising in connection with efforts by the Internal Revenue Service (IRS) to collect her tax liabilities through garnishment of wages and levy upon bank account and real estate holdings. Following removal of the action under 28 U.S.C. § 1442, the various defendants moved for dismissal and/or summary judgment on numerous grounds. The district court issued a succession of memorandum orders that, taken together, rejected all of the claims asserted in the case. Plaintiff appeals from the entry of judgment incorporating these orders.

We review the legal rulings of the district court de novo. *See Santana v. City of Tulsa* , 359 F.3d 1241, 1243 (10th Cir. 2004); *Redmon ex rel. Redmon v. United States* , 934 F.2d 1151, 1155 (10th Cir. 1991). Upon consideration of the arguments advanced and materials submitted on appeal, however, we affirm the judgment under review for the reasons fully explained by the district court.

The IRS has moved for appellate sanctions against plaintiff in the amount of \$6,000. We decline to exercise our discretionary authority to impose sanctions. While plaintiff's pro se briefing did little to illuminate the legal issues addressed by the district court, the court's analysis of those issues, if not plaintiff's grasp thereof, shows that they were not entirely frivolous.

The judgment of the district court is AFFIRMED. The motion for sanctions filed by the Internal Revenue Service is DENIED. The mandate shall issue forthwith.

Entered for the Court

Deanell Reece Tacha
Chief Judge